



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 10, 2005

Date of Meeting: April 12, 2005

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:40 p.m. on Tuesday, April 12, 2005, all members having been notified of the time and place thereof.

1. **ROLL CALL**

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra
Carol W. West
Kathleen Dunbar
Shirley C. Scott
Steve Leal
Fred Ronstadt
Robert E. Walkup

Council Member Ward 1
Council Member Ward 2
Vice Mayor, Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Mike Hein
Michael Rankin
Kathleen S. Detrick
Michael D. Letcher

City Manager
City Attorney
City Clerk
Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Craig Coulter, Oro Valley Church of the Nazarene, after which the pledge of allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed April 2005 to be The Month of the Young Child.
- b. Mayor Walkup proclaimed April 9, 2005 to April 16, 2005 to be Tucson United for Long-Term Tsunami Relief for Mercy Corps Week.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 188, dated April 12, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Vice Mayor Dunbar announced on April 12, 2005, Amphi High School Freshmen students participated in a variety of improvement projects throughout Ward 3 neighborhoods. Approximately three hundred seventy-five students volunteered over seven hundred fifty hours and thirteen projects included activities from cleaning, to reading, to painting.
- b. Council Member Scott reported on the Positive Aging For Women Conference held April 7, 2005, by the Ward 4 Council Office, Supervisor Ray Carroll and Tucson Pima County Women's Commission. Also, April 20, 2005 at 6:30 p.m., at Desert Sky Middle School, the next Southeast Regional Town Hall would be held to discuss the Houghton Area Master Plan, Southeast Area Arterial Study and the Airport Environs Zone. Finally, on April 27, 2005, at Secrist Middle School, there would be a Town Hall regarding Fantasy Island.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 189, dated April 12, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Hein, City Manager, reported:

- a. Early voting for the May 17, 2005 Bond Special Election would begin on Thursday, April 14, 2005. To request an early ballot, call 884-VOTE.

- b. General Services received three Governor's Awards for Energy Efficiency: An "Award for Excellence" the highest award was given to the new Adaptive Recreation Center. Awards of Merit were given to the Hardesty Midtown Multi-Service Center and the LED Traffic Signal Conversion Programs.
- c. The Tucson Community Design Academy was the focus of a session offered at the American Planning Association's 2005 National Planning Conference in San Francisco.
- d. Sun Tran and Parks and Recreation would be sponsoring a free concert series at the Ronstadt Transit Center on Fridays, beginning April 14, 2005 through May 13, 2005, from 4:30 to 5:30 p.m.
- e. Sun Tran shuttles transported 7,582 passengers for the Race for the Cure.

11. TUCSON CODE: AMENDING (CHAPTER 25), REVISIONS TO THE PEDDLERS' ORDINANCE

(NOTE: Item 11 was taken out of order.)

Mayor Walkup announced City Manager's communication number 192, dated April 12, 2005, would be received into and made a part of the record. He also announced Raul Gamez, Economic Development Specialist, Tucson-Mexico Project, was in attendance to translate for Spanish speaking members of the audience. He asked the City Clerk to read Ordinance 10141 by number and title only.

Ordinance No. 10141 relating to business licenses; amending *Tucson Code* § 7-26(3) relating to the definition of Peddlers, §§ 7-27(b)(3) and (6) relating to the operation of Peddlers on improved sites, and §§ 7-30(b) and (c) relating to separation requirements; and declaring an emergency.

Council Member Leal thanked City staff, vendors and the neighborhoods. In particular, he thanked Vice Mayor Dunbar and her staff for their work to amend the problems in the proposed Ordinance.

It was moved by Council Member Leal, duly seconded, to pass and adopt Ordinance 10141.

Mayor Walkup asked Ernie Duarte, Development Services Director, if he would like to say a few words.

Mr. Duarte, recapped the Study Session discussion held earlier. At the direction of the Mayor and Council, staff revised the ordinance. They removed the three-hundred foot separation requirement. They clarified the one-hundred foot separation on the same or different sites. They reinforced the notion that an architect need not have to prepare the site plans. They also incorporated all the information on the peddlers' applications

into their permanent database at Development Services, so they would be able to capture that information and report on it as necessary.

Mr. Duarte announced that the Development Services staff was in the lobby processing applications. Since that afternoon, they handled dozens of inquiries from peddlers. They distributed thirty applications and pre-approved a total of seven, pending the Council's decision later. They would be processing applications immediately after the Council's action.

Mayor Walkup asked if there was any further discussion. He recognized Council Member Ronstadt.

Council Member Ronstadt said he felt this was still wrong, giving crumbs to the smallest and most vulnerable businesses. He said the Council would probably hear later in the evening, and would probably hear consistently for a long time about the number of peddlers that would be placed out of business. Those would be peddlers who had been there for ten, fifteen, twenty-seven years, had no problems, no complaints, and now had no jobs, thanks to the actions of the Council. Council Member Ronstadt said that was a forty pound sledge hammer taken to the heads of small businesses, their families, their children, when all that was desperately needed was some surgical precision to address problems that existed on South Sixth and South Twelfth Avenues. The action, if taken, would affect the entire City and would put a lot of people and their families out of business.

Council Member Scott asked City staff to work with people who had been adversely affected because of the strategic location of their venue. She asked City staff to work with them continuously, because in some cases they would find there were extraordinary circumstances that would not allow them to follow the letter of the law, but that in fact enforcing it at its current written form did not make sense. For that reason, she asked that as part of the motion, City staff be allowed to work with those who had been displaced.

Council Member Scott said she knew there was at least one person in the audience who would have a hardship if the Council took action on this. She asked City staff if they could stay in place until the matter had been resolved, so their livelihood would not be cut off.

Mike Hein, City Manager, replied that was discussed to some degree last week. It was very difficult for staff to arbitrarily interpret discretion, as far as when not to enforce the Code. He said the Police Department and the Chief of Police appeared last week and addressed the issue of the education period. Staff was prepared to hold some education venues and outreach. It was one of the issues they would at some point have to define what they could or could not do. Clearly, he said they were not going to stop working with people on an individual basis. However, the notion of protecting the neighborhood interest, while accommodating the interest of free enterprise, was what he believed to be crafted in the ordinance. He said he thought he knew of the specific instance to which

Council Member Scott referred. It might be tough to harmonize the individual interest with the potential conflicts in the neighborhood, but they would do their best and continue dialogue.

Mr. Hein said he knew the Council expressed interest in revisiting the success or failure achieved through the ordinance and would keep that database. Those things would be in the reports in the future.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal;
Vice Mayor Dunbar and Mayor Walkup

Nay: Council Member Ronstadt

Ordinance 10141 was declared passed and adopted by a roll call vote of 6 to 1.

Kathleen S. Detrick, City Clerk, reminded those in the audience who wished to pursue their license to follow City staff out to the lobby. Their pre-application could then be stamped as approved and it could be taken immediately to the Business License window in the lobby, the fee could be paid, and they could get their license that evening.

Council Member Scott thanked City staff for their outreach. She noted there were five or six stations where people could go right away to get their pre-application. Staff was available for the peddlers. She felt that accommodating the peddlers in this way was part of what the City was trying to do to be helpful to the people who earned their livelihood that way. She commended and thanked staff for all their efforts. She said it was outstanding government at work.

Council Member Ronstadt said it was nice that staff was out there with their terminals and ready to help, but commented that when the denials start coming, they would still be there and helpful, but those people would be out of a job.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 183, dated April 12, 2005, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

Kathleen S. Detrick, City Clerk, announced under the Liquor License Agenda 5b, there were three requests for a new license. Staff indicated all were in compliance with City requirements. Under Item 5c, there were eight requests for special events. Staff indicated the applicants were all in compliance with City requirements.

b. New License

1. Wal-Mart Neighborhood Market #3357, Ward 3
3925 E. Grant Road
Applicant: Clare Abel
Series 09, City 16-05
Action must be taken by: April 14, 2005
Staff has indicated the applicant is in compliance with city requirements.
2. Nonie New Orleans Bistro, Ward 6
2526 E. Grant Road
Applicant: Jorge Antonio Luque
Series 12, City 17-05
Action must be taken by: April 16, 2005
Staff has indicated the applicant is in compliance with city requirements.
3. Mary's Downtown Flower Market, Ward 6
100 N. Stone Avenue #105
Applicant: Mary Sue Ramos
Series 10, City 18-05
Action must be taken by: April 25, 2005
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. Artsake Foundation, Ward 6
Congress/Aviation/6th Avenue/5th Avenue
City T22-05
Applicant: Jeb Bley Schoonover
Date of Event: April 16, 2005
Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
(Continued from Mayor and Council Meeting of April 5, 2005)
2. Congress Street Historical Theatres Foundation, Ward 6
318 E. Congress Street
Applicant: Douglas William Biggers
City T28-05
Date of Event: April 16, 2005
Live music; Part of Biannual Club Crawl Event
Staff has indicated the applicant is in compliance with city requirements.

3. Tucson Metropolitan Community Chorus dba Desert Voices, Ward 6
516 N. 5th Avenue
Applicant: Rebecca H. Cohen
City T29-05
Date of Event: April 16, 2005
Fundraising – Cabaret Production & Silent Auction
Staff has indicated the applicant is in compliance with city requirements.
4. St. Joseph Parish Fiesta, Ward 6
215 S. Craycroft
Applicant: Mathius Peter Wirtz
City T30-05
Date of Event: April 22 - 23, 2005
Fundraiser & Social Event
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: One Support letter
5. Arizona League of Conservation Voters, Ward 1
288 N. Church Avenue
Applicant: Linda K. Wilson
City T32-05
Date of Event: April 19, 2005
Book Signing Benefit
Staff has indicated the applicant is in compliance with city requirements.
6. Strength Building Partners, Ward 2
2970 N. Swan Road
Applicant: Camerone Elise Parker
City T33-05
Date of Event: April 22, 2005
“Celebrate Children 2005” Annual Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
7. St. Cyril Catholic Church, Ward 6
4725 E. Pima Street
Applicant: John Tabor
City T34-05
Date of Event: April 23, 2005
Fundraising
Staff has indicated the applicant is in compliance with city requirements.

8. Arizona Hospice & Palliative Care Org. (AHPCO)
140 N. Main
Applicant: Jan Marie Doughty
City T37-05
Date of Event: April 15, 2005
Esteban Concert/Fundraiser for AHPCO
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b3, and 5c1 through 5c8, to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA – ITEMS A THROUGH K

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

- A. GRANT AGREEMENT: WITH THE ARIZONA CRIMINAL JUSTICE COMMISSION FOR A DNA CAPACITY ENHANCEMENT PROGRAM
 1. Report from City Manager APRIL12-05-179 CITY-WIDE
 2. Resolution No. 20047 relating to grants; approving and authorizing execution of a DNA Capacity Enhancement Program Formula Grant Award with the Arizona Criminal Justice Commission to enhance the capacity of the Tucson Police Department Crime Laboratory's DNA section; and declaring an emergency.
- B. REAL PROPERTY: ACQUISITION OF REAL PROPERTY LOCATED AT 309 WEST SIXTH STREET, 375 NORTH MAIN AVENUE, AND 433 NORTH MAIN AVENUE FROM THE ARIZONA DEPARTMENT OF TRANSPORTATION
 1. Report from City Manager APRIL12-05-185 WARD 1
 2. Resolution No. 20048 relating to real property; authorizing the City Manager to acquire from the Arizona Department of Transportation certain parcels of real property located at 309 West Sixth Street, 375 North Main Avenue and 433 North Main Avenue; and declaring an emergency.
- C. REAL PROPERTY: ACQUISITION OF PROPERTY FOR WELL SITE EXPANSION IN THE CATALINA ISOLATED WATER SYSTEM
 1. Report from City Manager APRIL12-05-186 OUTSIDE CITY

2. Resolution No. 20049 relating to real estate; authorizing the City Manager to acquire by negotiation certain real property located in Pima County directly adjacent to wellsite I-001B of the Catalina Isolated Water System to improve the existing service to the Town of Catalina; and declaring an emergency.

D. LOAN REPAYMENT AGREEMENT: WITH THE ARIZONA TRANSPORTATION BOARD FOR IMPROVEMENTS TO HARRISON ROAD, SPEEDWAY BOULEVARD TO OLD SPANISH TRAIL

1. Report from City Manager APRIL12-05-184 WARD 2
2. Resolution No. 20037 resolution relating to transportation; authorizing the City of Tucson, Arizona to borrow up to \$4,600,000 from the Arizona Transportation Board for improvements to Harrison Road, Speedway Boulevard to Old Spanish Trail; authorizing the execution and delivery of a Loan Repayment Agreement setting forth the terms of such loan and providing for the payment thereof; pledging certain revenues to the repayment thereof; and declaring an emergency.

E. REAL PROPERTY: AUTHORIZATION TO ACQUIRE PROPERTY LOCATED ON THE WEST SIDE OF GRANADA AVENUE, SOUTH OF CONGRESS STREET, FROM NOR-GEN LAND TRUST

1. Report from City Manager APRIL12-05-187 WARD 6
2. Resolution No. 20050 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located along the west side of Granada, south of Congress, for the development of the Civic Plaza; and declaring an emergency.

Consent Agenda Item E was considered separately at the request of Council Member Leal and Vice Mayor Dunbar.

F. ASSURANCE AGREEMENT: (S03-033) SILVERBELL VISTA, LOTS 1 TO 40 AND COMMON AREAS “A” – “L”

1. Report from City Manager APRIL12-05-195 WARD 1
2. Resolution No. 20051 relating to planning; authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-033 of a final plat for the Silverbell Vista Subdivision, Lots 1 to 40 and Common Areas “A” – “L”; and declaring an emergency.

- G. FINAL PLAT: (S03-033) SILVERBELL VISTA, LOTS 1 TO 40 AND COMMON AREAS “A” – “L”
1. Report from City Manager APRIL12-05-182 WARD 1
 2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- H. ASSURANCE AGREEMENT: (S04-033) RITA RANCH CROSSING, LOTS 1 TO 47 AND COMMON AREAS “A”, “B”, AND “C”
1. Report from City Manager APRIL12-05-194 WARD 4
 2. Resolution No. 20052 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-033 of a final plat for the Rita Ranch Crossing Subdivision, Lots 1 to 47 and Common Areas “A” – “C”; and declaring an emergency.
- I. FINAL PLAT: (S04-033) RITA RANCH CROSSING, LOTS 1 TO 47 AND COMMON AREAS “A”, “B”, AND “C”
1. Report from City Manager APRIL12-05-178 WARD 4
 2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- J. APPROVAL OF MINUTES
1. Report from City Manager APRIL12-05-196 CITY-WIDE
 2. Approval of minutes for the regular meetings of the Mayor and Council held on June 7, 2004, June 14, 2004, and March 8, 2005.
- K. INTERGOVERNMENTAL AGREEMENT: TECHNICAL AMENDMENTS TO THE AGREEMENT WITH THE FOX TUCSON THEATRE FOUNDATION AND THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT REGARDING THE HISTORIC FOX THEATRE
1. Report from City Manager APRIL12-05-193 WARD 1

2. Resolution No. 20053 relating to Intergovernmental Agreements; authorizing the Mayor to execute on behalf of the City of Tucson the Second Amendment to the Intergovernmental Agreement between the City, the Rio Nuevo Multipurpose Facilities District, and the Fox Tucson Theatre Foundation entitled Intergovernmental Development and Lease Agreement for Restoration, Operation and Management of the Historic Fox Theatre; and declaring an emergency.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through K, with the exception of Item E, which would be considered separately, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Consent Agenda Items A through K, with the exception of Item E, were declared passed and adopted by a roll call vote of 7 to 0.

E. REAL PROPERTY: AUTHORIZATION TO ACQUIRE PROPERTY LOCATED ON THE WEST SIDE OF GRANADA AVENUE, SOUTH OF CONGRESS STREET, FROM NOR-GEN LAND TRUST

1. Report from City Manager APRIL12-05-187 WARD 6
2. Resolution No. 20050 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located along the west side of Granada, south of Congress, for the development of the Civic Plaza; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced that Consent Agenda Item E was removed at the request of Council Member Leal and Vice Mayor Dunbar.

Council Member Leal said he asked that this item be discussed separately because it seemed to him to be of manifold significance, not just with regard to the future of the downtown, but also to the future of the Norvell family who worked on the downtown for some time. He knew there had been a collection of discussions, which protracted some degree of frustration, some fruitfulness, not enough to bring resolution. He thought the City had come to the point of considering using eminent domain to condemn the property.

Additionally, Council Member Leal was concerned because the City's plans were not evolved to the point of definition and focus. When they did decide on a use, it might be a year and a half into the future. He thought it was incumbent upon the City to take a deep breath and go back to the table and act with the good will he felt the Council and the Norvells' had to see if a resolution could be found. The City desired for some time that businesses come downtown and help the City. The Norvells, as other businesses, had been doing this for more than fifteen or twenty years. Council Member Leal felt it was important that the City's relationship with them be a model for the relationship they professed to offer to future businesses. For those reasons, he thought it would be prudent of the Council to delay this for a bit and go back to the table and see if some resolution could be reached. He would not be making a motion to this, as he understood someone else would be making a motion.

Council Member Ronstadt recognized the value of the GJX Gem Show, which was the show run by the Norvells and the value of all Gem Shows that came to Tucson. In the same vein as Civic Plaza, which was discussed and approved by the community in 1999, that would also bring value to citizens and visitors who came to Tucson. Moving forward on this project in a timely manner was extremely important to the success of the City, the downtown and the region. Many people in the community were frustrated with the slow pace of how things were going. The reality was that it really had not been a slow pace. The work had not been obvious because there had been archaeological digs, figuring out where the trash was from old landfills and remedying that.

Council Member Ronstadt said members of the Citizens Downtown Advisory Committee liked to say that the City spent the last three years setting the table and now people were beginning to come to dine. He was intimately involved between the Norvells and City staff for at least five years. He set up meetings, cleared roadblocks, helped them get parking. He was a friend to the Norvells and tried to work those things out. His patience had expired; but he understood the desire of the Council in total and would be laying out his motion.

It was moved by Council Member Ronstadt, duly seconded, to authorize staff to proceed to acquire the Nor-Gen property through good faith negotiations. If no resolution was reached within sixty days, authorization to take steps to acquire through eminent domain proceedings should be scheduled on the Consent Agenda calendar for immediate action by the Mayor and Council. He further explained the Council would not take action at this meeting on the condemnation, but there would be a sixty-day window. In addition, he asked staff to provide the Mayor and Council with weekly updates by memorandum on the status of the negotiations. It was further directed that Mike Hein, City Manager, lead negotiations and all documents, actions, etc., necessary to carry out acquisition should be completed within the next sixty days. As Chairman of the Downtown Rio Nuevo Subcommittee, Council Member Ronstadt said he or a member of his staff would be present at all meetings between the City and the Nor-Gen owners or their agents.

Council Member Leal asked Mr. Norvell's representative to come forward and tell the Council if that was his understanding and if he was in agreement.

Pat Griffin, representing the Norvells, said it was his understanding that the action on the resolution would be continued for sixty days and then it would come back to the Mayor and Council at that time if the negotiations failed.

Council Member Ronstadt said that was what his motion said. In sixty days, if negotiations did not proceed, it would come back to Mayor and Council.

Council Member Leal asked for clarification. What he heard in the motion was there would be sixty days to see if the Norvells would be willing to sell. If they were not willing to sell, then it would be condemned, not a motion to take sixty days to see if Mr. Norvell's project could be done in such a way to fit in with the City's plans, such that condemnation would be unnecessary. His plan could go forward and be a part of Rio Nuevo if the City did it. He asked which interpretation was correct.

Mr. Griffin said the interpretation just stated by Council Member Leal was the one they would request. The other items in the motion made by Council Member Ronstadt were acceptable, but the request was that action on the resolution be continued for sixty days. During that time period, Mr. Ronstadt would oversee, on behalf of the Council, negotiations between Mr. Norvell and City staff, under the direction of the City Manager. Mr. Griffin said that would be their request.

Council Member Ronstadt said if the issue was the acquisition, he would modify his motion to say that the City enter into discussions and negotiations to resolve the outstanding issues between the City and the Norvells, or Nor-Gen, or whatever legal entity they were dealing with to resolve the issue. If it could not be resolved within sixty days, it would come back for consideration of condemnation. Therefore, the Council would not be putting it under eminent domain at this meeting, but in sixty days.

Mr. Griffin said that was acceptable to them, if it was the will of the Council.

Council Member Leal asked if that was enough of a change.

Mr. Griffin said he thought what Council Member Ronstadt said was that action on the condemnation resolution would be continued for sixty days and in the interim, the intense negotiations supervised by Council Member Ronstadt at the direction of the City Manager's Office was what would take place.

Council Member Ronstadt clarified that he would not participate in the negotiations. He would be an observer. Negotiations needed to occur between City staff and the agents of the Norvells.

Mr. Griffin said that was consistent with what he was told earlier.

Council Member Leal added that negotiations were not to gravitate toward a price, but the negotiations were about compatibility on the public/private potential within the Norvells' interest and the City's interest in Rio Nuevo.

Council Member Ronstadt said he would be more specific. He said this had been going on for some time. Five years ago, at Mr. Norvell's request, they sat down with the Mayor regarding what was then Presidio Grill. They laid out the proposal, received the Mayor's support, and went through Development Services to clear the decks to get the project done. Nothing ever happened, for whatever reason. They had several meetings, several discussions over the last five years to try to clear the decks and have negotiations. Then at the eleventh hour, someone said they were not going to do it.

Council Member Ronstadt said what this was intended to do was to resolve this issue. The issue had to be resolved. Whether the Norvells or the City ultimately owned the property, the Gem Show was important to the City. The Council would do anything in their power to preserve it, but they needed to move forward. They could not wait any longer. The voters voted for it in 1999. The City had been in negotiations with the Norvells at some level over the last five years, and it had to be resolved. He reiterated to Mr. Norvell that this issue had to be resolved in sixty days, or it would come back to Mayor and Council for eminent domain actions. That was his intent of his motion.

Mayor Walkup asked for clarification, to make sure they were all on the same page. He thought they were in an area that he could agree with as well. To him, it sounded as though the City was saying that in the next sixty days there would be serious fair and just discussions between City staff and Mr. Norvell and his team to resolve the issue. It would come back to the Mayor and Council for action in sixty days. The action the Council could anticipate would be that if they could not resolve it through negotiations, other action would be anticipated. Mayor Walkup asked the City Attorney for his interpretation of the motion before voting on the item.

Michael Rankin, City Attorney, said they restated the motion accurately. Essentially they were continuing Resolution 20050 for sixty days and directing staff, the City Manager in particular, to engage in good faith and diligent negotiations with Nor-Gen, Mr. Norvell and agents to achieve a resolution of the issue within that time frame.

Mayor Walkup asked if there was any further discussion.

Council Member Scott said she hoped that in the negotiating process, some of the questions she had might be addressed. She was sure they had been; but for clarification, she asked if the City had a plan for Mr. Norvell's property and if so, what was it. She felt that should be clarified. She asked if there was a location for Mr. Norvell's Gem Show in the plan, either a temporary one or a permanent one. She asked if Mr. Norvell could have a Gem Show building on his own land. She also asked if the City allowed the project architect to meet with Mr. Norvell, if so, when and how long. She wanted to know if there was any design that would allow Mr. Norvell to continue to operate his Gem Show

in the vicinity of its current location. Those were just some of the issues she hoped could be addressed in the negotiating process.

Vice Mayor Dunbar commented she was very uncomfortable with material brought to them, and referred to the word “condemnation” in the materials. She said the Council had not yet received the feasibility study. She was very uncomfortable with the City Manager, Mike Hein, only being in his second week, to all of a sudden being out there with another condemnation. She did not feel that was fair to Mr. Hein, especially since the feasibility study was not back. She understood the feasibility study for the property should be back in about forty-five days, and asked staff if that was correct.

Karen Thoreson, Assistant City Manager, said she believed Vice Mayor Dunbar was speaking the design of the Civic Plaza. On the progress plan, they were the consultants on that plan and should have it back within thirty to forty-five days.

Vice Mayor Dunbar said that then she was supporting Council Member Ronstadt’s motion, but again stated the final decision for her depended on the feasibility study and how things came back. She was glad they had a good sixty days to try to work out a negotiation.

Council Member Leal said he was glad Vice Mayor Dunbar brought that up. He asked if the scope of their work was predicated on Mr. Norvell’s property not existing. Now that this was occurring, he asked if they needed to be told to have an option where it could exist within the scope.

Karen Thoreson, Assistant City Manager, responded the scope of their work was not predicated on any specific thing. It was to help them design the Civic Plaza that connected the Tucson Convention Center and the Science Center, a series of retail and cultural opportunities and parking. They had a broad scope. They were looking at three different alternatives that included the use of Mr. Norvell’s land. They were not hypothetical in this; all the alternatives required his land.

Council Member Leal said he was not asking whether the alternatives might include his land, but if any of the alternatives included his land with him using his land.

Ms. Thoreson replied that part of the scope that the Hargrave’s firm has been given was to meet with Mr. Norvell and other stakeholders to identify how to relocate uses that were currently in existence in and around the downtown.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

The motion to authorize staff to proceed to acquire Nor-Gen property through good faith negotiations, and if no resolution was reached within sixty days, authorization to acquire the property through eminent domain would be placed on the Consent Agenda for immediate action, passed by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. Bruce Gerowitz spoke in opposition to the Peddlers' Ordinance, as it had adversely affected his business.
- b. Michael Toney spoke regarding several issues, which included Arizona Revised Statutes on State Trust Land conservation; Rio Nuevo projects; Regional Transportation Authority's widening of Speedway, and the Peddlers' Ordinance.
- c. Steven Wind spoke in opposition to the Peddler's Ordinance; specifically how it impacts the Fourth Avenue Street Fair and the Gem and Mineral Show.

Council Member Ibarra asked staff to take a look at the issue and respond to Mr. Wind.

- d. Linda Bohlke, representing American Federation of State and City Municipal Employees (AFSCME,) spoke in opposition to a lack of sanitary facilities for Tucson Water field workers.
- e. Roy Thatcher spoke in opposition to a lack of sanitary facilities for Tucson Water field workers.
- f. Steve Valencia, representing Jobs with Justice, spoke in opposition to a lack of sanitary facilities for Tucson Water field workers and requested consideration be given to a crosswalk at 18th and Osborne, better communications equipment for field workers, and the availability of standby vehicles.
- g. Jesus Gonzales addressed the Mayor and Council in opposition to a lack of sanitary facilities for Tucson Water field workers.
- h. Janet Searle spoke in opposition to a lack of sanitary facilities for Tucson Water field Workers.

8. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 6), ADOPTION OF LOCAL SWIMMING POOL AMENDMENTS TO THE 2003 INTERNATIONAL BUILDING AND RESIDENTIAL CODES (CONTINUED FROM THE MEETING OF MARCH 22, 2005)

Mayor Walkup announced City Manager's communication number 191, dated April 12, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the adoption of Swimming Pool Code Amendments. He called on staff to make a brief presentation.

Ernie Duarte, Development Services Director, recapped the discussions held during Study Session. This item was continued from the meeting of March 22, 2005. They were amendments to the Building Code, specifically relating to the requirements of barriers separating the pool from the house and yard. Previously on March 22, 2005, the amendment included provisions for a dual drain system. After their Pool Code Stakeholders meeting of April 4, 2005, it was decided that particular item needed further discussion and analysis and was referred back to the Building Code Committee. That Building Code Committee would be meeting on April 20, 2005 at Development Services, at 3:00 p.m. in the afternoon. It was their recommendation that the Council move forward to adopt the proposed changes.

Council Member Ronstadt said that when the issue was before the Mayor and Council, and was continued, it seemed they were getting a sales pitch from some vendor on the section unit. He could not remember the technical name for it. He asked if it was being continued because they were having a battle of vendors and product providers, or were other technical issues being addressed?

Mr. Duarte said it became apparent at the April 4, 2005, Pool Code Stakeholders meeting that there were legitimate issues raised that needed further analysis. That was the consensus among all the stakeholders at the meeting.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. He had not received any speaker's cards, and asked if any one in the audience wanted to address the Mayor and Council on this issue.

John Apple said he had been sending correspondence to the Mayor and Council Members regarding this issue. One Council Member called him after receiving his initial response and told him that requiring a fence was a State mandated regulation. He said he knew that to be incorrect. The State law actually provided property owners in the state who wished to have a pool three options: a fence; an electric cover; or door locks at a certain height and windows screwed shut that accessed the pool, as long as there were emergency exits available to members of the household. It did not mandate only a fence barrier between the house and the pool.

Mr. Apple said the Council Member misconstrued the information to him as her constituent, which angered him to no end, because he knew better. As a property owner in the City who wished to have a swimming pool, he should be allowed to have options which he could decide upon, based on the requirements and needs of his household, as to what kind of safety he wanted to have for his house, and not necessarily just a fence. It was all about options. If the Council passed a regulation demanding that he put up a fence, that would remove all options from him. He would have to do what the Council tells him, which could cost him two to three thousand dollars in addition to the cost of the pool for fencing.

Mr. Apple said the second option was an electric cover for the pool. They cost an additional seven or eight thousand dollars. Latches on doors which self close and permanently affixing windows was a much less expensive way to protect his home from people getting into the yard and drowning. He resented the fact that the City government was attempting to take away his options from him.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0 to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10142 by number and title only.

Ordinance No. 10142 relating to Buildings, Electricity, Plumbing and Mechanical Code; amending the *Tucson Code* Chapter VI, Buildings, Electricity, Plumbing and Mechanical Code, Article III Buildings, Division I Building Code, Section 6-38 Residential code adopted, Section 6-34 Building Code adopted; providing for a penalty; and declaring an emergency.

Council Member Scott asked for clarification. If the ordinance was passed, would it apply to people who already had existing pools, or would it apply to new homes, henceforth.

Mr. Duarte replied that it was prospective and would apply to any future permits issued for pools. It would not be retroactive.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 10142.

Mayor Walkup asked if there was any further discussion.

Council Member West said that before Mr. Apple hung up on her yesterday, she tried to explain to him that it was not retroactive, but she did not have that opportunity. However, if a pool were put in for the first time, it would be covered. She asked if that was correct.

Mr. Duarte replied that was correct.

Council Member Ronstadt asked Mr. Duarte to talk about what the State law said or does not say in terms of the speaker's comments. Would the Council be forcing people into a box and not allow them options that might be afforded to them by the State.

Mr. Duarte replied that State law, which was A.R.S. § 36-1681, provided for an additional option with respect to having latches on the doors that would open out. However, as was explained during Study Session, and the previous time they were there on the item, they previously had in their code the provision that they were now reinstalling into the code with respect to the barrier between the home and the pool, for the reasons explained to them by the Tucson Fire Department earlier.

Council Member Ronstadt said he wanted Mr. Duarte to reiterate those reasons, because he felt it was important for people to know that even though those options existed, they caused problems which were worse.

Dan Newburn, Tucson Fire Chief, referred to Council Member Ronstadt's question. He said the third option did not seem to be functional for the City of Tucson for several reasons. The first was that a latch at 54 inches would remove that door as an emergency exit for small children or people in wheelchairs. They also found that allowing the door to have a latch or an alarm was an ineffective way to protect children from having access to the swimming pool. Also, he said it did not allow a safe haven for children to play in the back yard without a fence separating the pool from a play area for the child. Therefore, in looking at all the options, and again as Mr. Rankin stated, this was not a new issue. It was an ordinance that was in effect for fifteen years.

Council Member Ronstadt pointed out that some of the solutions would create potential safety hazards for the disabled community, and others as identified by Chief Newburn. That was the point he wanted to lay out.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10142 was declared passed and adopted by a roll call vote of 7 to 0.

**9. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 25),
ESTABLISHING THE TRAFFIC MANAGEMENT FOR TEMPORARY WORK
ZONES PROGRAM**

Mayor Walkup announced City Manager's communication number 180, dated April 12, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a proposal to

establish a traffic management for a Temporary Work Zones Program. Before beginning the public hearing, he called on staff to make a brief presentation.

James Glock, Transportation Department Director, reported the Traffic Management for Temporary Work Zones Program was intended to achieve the following goals: reduce the travel frustration on the part of motorists, pedestrians, bicyclists, and transit patrons as they tried to navigate around temporary work zones; improve the work zone safety for both workers within the zone as well as the traveling public; maintain emergency vehicle response times; create more positive public relations with the traveling public as they travel around work zones and reduce the City's overall liability exposure.

Mr. Glock said that by adoption of the ordinance establishing the program, the goals would be achieved, through establishing a uniform set of rules that all contractors, utilities and government crews must follow or manage the times and locations that permits would be available. It would limit the restrictions during peak hour travel times, as well as major holidays, and coordinate with other permitting that occurred for activity within the public rights of ways, such as excavations and civic events. Finally, it would establish new permit fees and fines to support the staff, materials and equipment necessary for the programs' implementation.

Mr. Glock continued that Transportation Department staff, lead by Deputy Director Steve Pageau, worked extensively with the key regulated stakeholders of the program. Every effort was made to address the issues raised and still maintain the integrity of the program for the benefit of the traveling public. Those efforts included broadening the definition of active work, to take into account concerns about scheduling the material, waiting for inspections from outside agencies and equipment failures, etc; recognizing that traffic volumes in the off-peak direction during peak hours might allow temporary work zones to be established along those lanes, clarifying that multiple thirty day permits might be issued at one time; addressing the desire to avoid paying the permit fees for work that relates to the impact fee work program through an administrative process; and finally recognizing that contractors may have already submitted bids for work that did not include the new fees. They would work with them to grandfather their barricading permits into the new program.

Kathleen S. Detrick, City Clerk, announced there was a delayed effective date for the ordinance. It would become effective on May 15, 2005, instead of immediately.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. He said he had received a number of requests to speak. He called on the first speaker.

Dan Cavanaugh was representing the Arizona Builders Alliance and Trade Association of Commercial Contractors. Mr. Cavanaugh said the Department Director in his summary of things he hoped to achieve, touched on his two major points, which were the last two. He thanked staff for working with them and complimented staff for their

outreach to all the organizations. They had done an outstanding job in working with them.

In particular, he wanted to mention the City Manager. He remembered chatting with Mr. Keene about two months into the process about Development Services. Mr. Keene commented to him that they thought of balancing the budgets and building skyscrapers, good jobs, and communities of the future, and all he ends up doing in revamping Development Service. Mr. Cavanaugh continued that the first day on the job, he had the opportunity to send the new City Manager his problems with barricade ordinance. He commented that some things never changed. He said Mr. Hein took the time to go to staff and talk about where they were, where they wanted to go, the easiest way for paperwork, for money, for process. Mr. Cavanaugh felt that while it was going to be done administratively, it was going to be a process ending with the counterparts in other cities calling and asking for copies of the City's ordinance.

Fred Gomez, owner of Desert Barricades, said they had a problem. He said they supported the ordinance fundamentally as proposed. They traveled the streets of Tucson and found contractors out, in their opinion, illegally. They are not set up in any way, shape, or form according to any rules or regulations. They were hazards. They needed to be taken care of and felt the ordinance would take care of those individuals. However, the media has focused on just one aspect of the ordinance. He commented that David Fitzsimmons had his cartoon and on the chalkboard it said, "no work being done, barricades shouldn't be out". One of the issues with that was that there were three different things going on. As the provider of barricades, paint took time to dry. Concrete took time to dry. Asphalt needed to cure. He asked if they needed to have a contractor crew waiting and watching the paint dry. He referred to another cartoon where they were paying crews to watch paint dry.

Mr. Gomez said another issue he had with the ordinance was that right now they were able to call in a two-day permit. If the contractor was not going to be impacting the road for more than two days, they could make a phone call. It would not be reviewed formally by staff. His concern was with the fees charged for permitting and for permitting inspection. He asked at three meetings he attended, how would and who would collect the fees. Would the fees come out of his pocket as a loan to the contractor, or would there be a mechanism that the contractor would have a bank account, a credit account, or some kind of account for his company? He compared himself to a midget competing in a land of giants. There were some very large barricade companies out there and they could afford for it to come out of their pockets and pay the fees up-front and wait sixty or ninety days for payment. His concern, as Desert Barricades, was that they would be financially impacted, perhaps severely, as they produced anywhere from ten to fifteen permit requests a week. For a small company, he said that was a lot of money to come out of his pocket. He supported the ordinance, but was concerned about how it was going to be paid for. He inquired where and when would the check be written to the City.

Mayor Walkup said those were good points. He asked if there were any further comments. He recognized Council Member Ronstadt.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Council Member Leal had some questions for staff. He commented on Mr. Gomez' series of important questions. He asked if staff noted the questions and asked if staff could respond to them so that they could understand, and so that Mr. Gomez could understand how those issues would be dealt with.

Mr. Glock replied that in particular, the definition of active work zone took into consideration the need for paint to dry and concrete to cure, and that no workers would be present during those time periods. They recognized that in the language. To the extent that they were not able to reach out to Mr. Gomez and make sure he understood that prior to the public hearing, he apologized. With respect to payment of fees by the contractor, he said they were going to request that the body to whom they issued the permit would have to pay those particular fees. He added that the payment mechanism would be the same payment mechanism afforded to everyone who comes into Development Services with respect to that issue. Therefore, the need for subcontractors to get repaid by prime contractors or owners would have to be an issue that would rest between them.

Council Member Leal said that when Mr. Gomez explained about the relative impact between large contractors and small contractors, he felt that was really significant. If he would be taking out a large number of permits weekly or monthly, his front end cost and tied up capital would be burdensome to the point of being crippling to a small business. He asked if there were any provisions for the contractor that hired him to be the one that paid for it, as they would have more money than the barricade company.

Steve Pageau, Department of Transportation Deputy Director, replied they looked at that. They spoke with a number of the prime contractors they worked with. However, they also had to recognize this would have a broad effect on a number of people, everywhere from community events, public improvement agreements, their own capital programs, their street maintenance activities and Tucson Water. It was a broad application of how that would apply. Each of the barricade companies enters into a contractual agreement with either a developer or contractor, to provide the barricades. In their contractual agreement, it would be another element they would have to discuss. He asked how would that barricade permit be drawn. Would it be the prime contractor, the developer, or the barricade company that would continue to provide that service?

Mr. Pageau said part of that service would be how those fees would be handled. Development Services had a draw-down account that could be set up. He was sure those relationships that the barricade companies had were probably long standing ones. He said they could talk about working together as they had the past, continuing to do so with the new understanding that the City had in terms of the fees associated with the barricading. Staff felt this was going to be something that was going to be a change in the way business had been handled.

Mr. Pageau made reference to Mr. Gomez's comment about being able to call in a barricade that was less than the two-day impact. That was probably one of the problems they had; they did not know where those applications were. That was why this program would be so critical. The City would actually be able to manage and understand where those impacts would be, before they actually occurred. They would be saying they needed the application three days in advance, so they could manage that activity. Those were changing paradigms for the entire workforce. He said there had not been a cost. They have not done the kind of job they should have been doing as stewards of the right-of-way to manage those activities. That was a step they thought was necessary. He said they also put a provision to review it in August, to reflect on things that had and had not worked, and things they needed to do to fine tune it so that it achieved the goals and resolved issues they had not come to terms on or expected.

Council Member Leal thanked Mr. Pageau for his overview. He said he wanted to ask him how long they were going to let it go out, before they reviewed it. He thought August was a tight reign and that minimized the extent to which people could be impacted. If there were problems, they could learn from that and they could modify it in three and a half months.

Vice Mayor Dunbar said Council Member Leal's questions were good. She asked when they would begin implementing the ordinance.

Jim Glock, Department of Transportation Director, replied May 15, 2005 was the implementation date.

Vice Mayor Dunbar said that in listening to Mr. Gomez, her concern was that the transportation contracts, such as road projects, were done well in advance. She was really concerned about some of the small companies falling through the cracks. August would seem to be a quick review, but not to a small business who was used to doing business a certain way for years, being able to call in as mentioned. She asked if the Council's action put someone out of business.

Mr. Glock replied, as he mentioned in his opening comments, they understood the lead time associated with some of the work that occurred on the public right-of-way. They would be working as the permit requests came in with the barricade contractors and their contractors to make sure that they were bidding and operating with the fore-knowledge that they had the new permit fees to address or did not. For those cases where they did not, they would make accommodations for them, recognizing that their bids did not include the fees. Mr. Glock said they wanted to make the program work. They wanted to use an educational and outreach approach to make sure it was a success. They would not be going out on day one and writing any citations. They would be using that opportunity to go out and educate their stakeholders who would be regulated by the new program, to achieve the goal they wanted to see in the end. He commented that Mr. Pageau had worked very hard to get them through to date, which would be a better management of those traffic work zones that were out there.

Vice Mayor Dunbar said she appreciated Mr. Glock's comments. She thought that as they saw earlier with the Peddler's Ordinance, something with really good intentions going awry. She believed, as Mr. Cavanaugh said, this was something that people would say was good. But she hoped staff would be very considerate and look beyond the ordinance for special situations. She did not want to hear three weeks from now they literally put someone out of business.

Council Member Ronstadt said that was the question he had regarding the pipeline. What he heard staff say was if there were contracts that were bid without contemplating the new fee, that would be addressed. He asked staff what the mechanism would be for that. Who would be able to waive the fee, because the contractor did not contemplate the new fee?

Ernie Duarte, Development Services Director, said they would just be asking for a copy of the contract indicating they did not bid the contract with the fee in place, and they would not be asking them to pay the fee for the barricading permitting that would be required.

Council Member Ronstadt said he assumed the director would have the discretion that would be written into the ordinance that would allow that to happen.

Michael Rankin, City Attorney, said Section 4 of the ordinance giving City officers and employees to perform all acts necessary or desirable to give affect to the ordinance. He said they also made it clear in their discussions and in Mr. Glock's responses that this was the way they wanted the administrative issue handled. Mr. Glock could carry that out.

Council Member Ronstadt asked why they could not put that kind of clause into the Peddler's Ordinance, to allow people to address those types of problems. He realized it was totally unrelated to this item, but said there were vendors who had legitimate problems. However, there was no room for squiggle for them.

Mr. Rankin said it was awkward, because as Council Member Ronstadt said, it was not related to this item. He did not want to engage in a discussion on that issue.

Mayor Walkup asked if there were any further discussions. Hearing none, he asked the City Clerk to read Ordinance 10140 by number and title only.

Kathleen S. Detrick, City Clerk, said she would read the Ordinance with the amendments that had been made, which would delay the effective date of the Ordinance until May 15, 2005.

Ordinance No. 10140 relating to streets and sidewalks; establishing a Temporary Work Zone Traffic Management Program; amending Tucson Code by amending Section 25-24 thereof and by adding a new Article V to Chapter 25 thereof entitled Temporary Work Zone Traffic Management; establishing an effective date and declaring an

emergency. Section 5, Sections 1 and 2 of the Ordinance shall become effective on May 15, 2005, and the former Section 5, which was the standard emergency clause has been renumbered to Section 6.

It was moved by Council Member Leal, duly seconded, to pass and adopt Ordinance 10140.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10140 was declared passed and adopted by a roll call vote of 7 to 0.

10. PUBLIC HEARING: SEWELL-HUDLOW NEIGHBORHOOD PLAN AMENDMENT, WILMOT ROAD AND HAWTHORNE STREET

Mayor Walkup announced City Manager's communication number 181, dated April 12, 2005 would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on amending the *Sewell-Hudlow Neighborhood Plan*. He said the applicant was present and asked if he had any brief comments before they began the public hearing.

Richard Blythe, the applicant, said he was asking the Mayor and Council to amend the *Sewell Hudlow Neighborhood Plan* so he could rezone the property, which was currently residential, to O2, which would be small business. This project was near and dear to his heart. His father built the property fifty years ago in March, and he was born on April 15. He was literally born in that home. He was raised as a child in that house. When he was a child growing up there, there was no Wilmot Road. There was just a dirt road. Now it was a six-lane highway. He acquired the property through the passing of his father seven months ago. He was simply asking to rezone the property so they could have a small business in it. It would not be a high traffic area. It would be a small business such as an insurance, security, something along those lines.

Mr. Blythe said the problem with it now was that his father left the property in disarray, due to his age. He passed away at nearly ninety. He wanted to bring the property back to standards. He planned to do a buffer zone. He had an affection for the neighborhood and wanted to make the house look good, presentable, and have a viable business. When the house was built and Wilmot was there, it was approximately 100 feet away. Now they had a six-lane highway and it was approximately thirty feet away. The noise was horrible for a residential home. He added this was the last of three residential homes on the west-side of Wilmot, between Speedway and Broadway. He was simply asking that they be allowed to zone for business.

Mayor Walkup announced the public hearing would be scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. He asked if there was anyone wishing to be heard on this issue. There was no one.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Resolution 20046 by number and title only.

Resolution No. 20046 relating to planning and zoning; amending the *Sewell-Hudlow Neighborhood Plan* to convert a single-family residential use to a residentially scaled office use at the northwest corner of Wilmot Road and Hawthorne Street; and declaring an emergency.

It was moved by Council Member Ronstadt, duly seconded, to pass and adopt Ordinance 20046.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 20046 was declared passed and adopted by a roll call vote of 7 to 0.

11. TUCSON CODE: AMENDING (CHAPTER 25), REVISIONS TO THE PEDDLERS' ORDINANCE

(Note: This item was taken out of order and discussed after Item 4.)

12. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 190, dated April 12, 2005, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Vice Mayor Dunbar, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointments of Judy Burns, Margot Garcia, Raj Kohli, Daniel Samorano, John Sedwick, and Ron Wilcox to the Environmental Services Advisory Committee.

Council Member West noted she thought Raj Kohli was already on another committee, and asked if he could be on that committee.

Kathleen S. Detrick, City Clerk, said she would check on that. She thought there was an exception on this particular committee. She would verify that and if he was not eligible, they would bring it back to the Council.

13. ADJOURNMENT 7:30 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, April 19, 2005, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 12^h day of April 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:sac/lp